

STANTON, S

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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L.A. MURPHY, MARVIN STERNHELL, and
HENOCHE KAIMAN, on their own behalf and on
behalf of all others similarly situated,
-----x

Plaintiffs, :

vs. :

KOHLBERG KRAVIS ROBERTS & COMPANY;
CARLYLE GROUP; CLAYTON, DUBILIER &
RICE; SILVER LAKE PARTNERS;
BLACKSTONE GROUP; BAIN CAPITAL LLC;
THOMAS H. LEE PARTNERS; TEXAS PACIFIC
GROUP; MADISON DEARBORN PARTNERS;
APOLLO MANAGEMENT LP; PROVIDENCE
EQUITY PARTNERS; MERRILL LYNCH AND
CO., INC.; and WARBURG PINCUS, LLC.,
-----x

Case No.: 06 CV 13210 (LLS)

Defendants. :

-----x

**STIPULATION AND [PROPOSED] ORDER
STAYING ACTION**

WHEREAS, by stipulation of the parties and Order of the Court, the date
for Defendants to move against or answer the complaint in this action is currently
February 16, 2007; and

WHEREAS, a conference in accordance with Federal Rule of Civil
Procedure 16(b) (the "Rule 16(b) conference") is scheduled for February 16, 2007; and

WHEREAS, Defendants are prepared to file a motion to dismiss the
complaint on or before February 16, 2007; and

WHEREAS, one of several grounds for Defendants' motion is that the
complaint fails to plead a conspiracy under the antitrust laws; and

WHEREAS, the United States Supreme Court has recently heard oral argument on the pleading issue in actions alleging a conspiracy under the antitrust laws (*Twombly v. Bell Atlantic Corp.*, 425 F.3d 99 (2d Cir. 2005), *cert. granted*, 126 S. Ct. 2965 (2006)(argued November 27, 2006)); and

WHEREAS, plaintiffs proposed and defendants agree that it will benefit the parties and the Court and serve the interests of judicial economy to have the decision of the Supreme Court in *Twombly* before briefing the motion to dismiss.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the parties through their undersigned attorneys, subject to the approval of the Court:

1. That this action be stayed pending the Supreme Court's decision in *Twombly*.
2. That within ten (10) days of the Supreme Court's decision in *Twombly*, Plaintiffs will notify Defendants whether Plaintiffs intend to file an amended complaint in this action.
3. That any amended complaint will be filed and served by Plaintiffs within thirty (30) days of such notice.
4. That Defendants will move against or answer the operative complaint within forty-five (45) days of notice that an amended complaint will not be filed or service of an amended complaint.
5. That the Rule 16(b) conference currently scheduled for February 16, 2007 is adjourned, and will be rescheduled by the Court after Defendants file an answer to the complaint or, if Defendants move to dismiss the complaint, after the Court decides Defendants' motion to dismiss.

Dated: February 7, 2007

SO ORDERED:

Laura L. Stanton
U.S.D.J.
2/8/07

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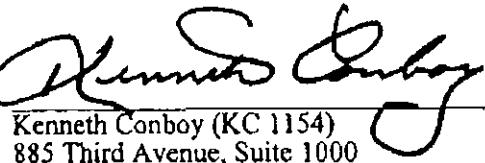
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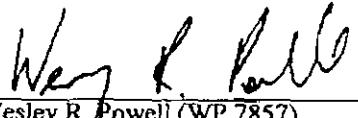
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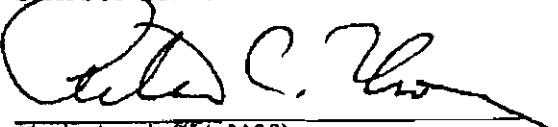
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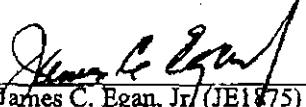
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